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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,364	06/08/2001	Steven Wolberg	WOLBS40412	1517
21587	7590	08/15/2006	EXAMINER	
ALTMAN & MARTIN 6 BEACON ST, STE 600 BOSTON, MA 02108			CAMPEN, KELLY SCAGGS	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/877,364	Applicant(s) WOLBERG, STEVEN	
	Examiner Kelly Campen 	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically as to claim 1, the phrase "in part" is vague and indefinite because the metes and bounds of the claim is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts (US 4642768).

Specifically as to claim 1, Roberts discloses a method for financing at least a portion of post-secondary education undertaken at a future date by at least some members of a predetermined group (a single member is encompassed within the scope of this), said method comprising the steps of determining a future average cost of post-secondary education at said future date, said determination based, in part, on current average cost of said post-secondary education, historic rate of change of cost of post-secondary education, projected rate of change of cost of post-secondary education, and the amount of time from said determining of said future average cost until said future date (figures 2-3); (b) determining basic plan payments for members of the group based, in part, on said future average cost, a projected percentage of the group that will enroll in said program as plan members, a projected percentage of said plan members that will undertake said post-secondary education as students, and a projected percentage of said students that will withdraw from said post-secondary education prior to completion; enrolling members of said group into said plan members ; (d) receiving said plan payments from said plan members; and (e) disbursing payments for each of said students while said each of said students is undertaking said post-secondary education (see col. 4, line 34 through col. 6, line 8).

Specifically as to claim 2-6, see above rejection for claim 1.

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6 are rejected under 35 U.S.C. 102(a) as being anticipated by Yinbal (US 6424952).

Specifically as to claim 1, Yinbal discloses a method for financing at least a portion of post-secondary education undertaken at a future date by at least some members of a predetermined group, the method comprising the steps of determining a future average cost of post-secondary education at said future date, said determination based, in part, on current average cost of said post-secondary education, historic rate of change of cost of post-secondary education, projected rate of change of cost of post-secondary education, and the amount of time from said determining of said future average cost until said future date; determining basic plan payments for members of the group based, in part, on said future average cost, a projected percentage of the group that will enroll in said program as plan members, a projected percentage of said plan members that will undertake said post-secondary education as students, and a projected percentage of said students that will withdraw from said post-secondary education prior to completion; enrolling members of said group into said plan members; receiving said plan payments from said plan members; and disbursing payments for each of said students while said each of said students is undertaking said post-secondary education (see figure 1, col. 1, lines 40-60, col. 2, lines 1-20, col. 4-10 for future forecasting).

Specifically as to claims 2-6, see above rejection for claim 1.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wallman (US 6801199) discloses a method and apparatus for interacting with investors to create investment portfolios. Wallman (US 6516303) discloses a method for managing taxable events within a portfolio. Wallman (US 6161098) discloses a method for enabling small investors with a portfolio of securities to manage taxable events within the portfolio. Roberts et al. (US 4752877) disclose a method and apparatus for funding a future liability of uncertain cost.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Campen whose telephone number is (571) 272-6740. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Kelly Campen



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3800